



Satellite Broadcast

DOMESTIC VIOLENCE RESTRAINING ORDERS: THE BASICS

Hypothetical Susan and Mark

You are the clerk in your court who reviews applications for temporary restraining orders under the Domestic Violence Prevention Act.

Susan is 17 and has a baby. Her father is a police officer, who kicked her out of the family home when she became pregnant by her boyfriend, Mark. Susan seems to have some problems with substance abuse. She lives with her friend's family, and is coming to the courthouse to file an application for a Temporary Restraining Order (TRO) against Mark.

Mark is 18 and has a good job. He plays on a community basketball team with your brother and is good friends with your brother. Like Susan, he also seems to have some substance abuse problems.

You notice Susan wandering in the hallway of the courthouse with the baby, who is crying. She appears to be lost. It is 4:30 p.m. on Friday; you have an important appointment at 5:00 and were hoping to leave a little early. Susan has brought her Domestic Violence Prevention Act (DVPA) application with her but it is incomplete. It is also the second time she has applied for such an order (she did not come to the hearing for the first order so the temporary order expired). You read her application which contains a threat to take the baby away from Susan that Mark allegedly made that morning. You notice that Susan's version of what has happened between the two of them over the last few weeks is different from what your brother told you recently.

When you tell Susan her papers are incomplete, she starts to cry. She says she is scared to take the bus home as she thinks Mark may be waiting for her outside the courthouse. She also says she can't stay much longer at her friend's house and will soon have no place to go. Just then Mark shows up.

Questions:

1. Are there issues here that make this a difficult case? What are they?

Every request for a restraining order must be taken seriously. In this case, there are many issues that should raise a red flag for you. The first is the fact that there is a child involved. Susan is only 17 and a child herself, trying to handle a very difficult situation. Her crying baby and her level of fear may make it difficult for her to understand and take all the necessary steps to apply for a restraining order. The clerk is her one hope for help.

Of course having a father in the police force who has kicked Susan and the baby out of the house makes her situation very difficult. Where is she to go, how will she safely house her baby?

The situation is further complicated by the potential substance abuse of both parties. Depending on your experience and knowledge of substance abuse, you may harbor judgmental attitudes toward those who abuse drugs.

Of course it gets tricky when the clerk has information from her brother which conflicts with what she is being told by Susan. Who do you believe? Can you stay neutral?

This is your job and you can stay neutral if you remind yourself that you don't have all the facts and that your help is essential to the safety of domestic violence victims. It's not just a form or two. It may be someone's life.

Initially Susan was scared to go to the bus stop and most likely not able to focus on completing forms with her fears increasing and her crying baby.

One of the most difficult parts of Susan's story is that she's been to the court before and did not follow through – this may make the clerk feel that Susan isn't going to follow through this time either and that means the clerk might miss her important appointment for no good reason. Actually, for some victims it takes more than one attempt at applying for a restraining order before the victim is able to complete the process. There are several reasons a woman may not follow through with a restraining order, for example:

- **Fear** – in the heat of the moment, she may apply for the order, but when she's had a moment to think about it and remember his threats, she is afraid he'll retaliate. For example, if he was in jail and gets out, he may threaten her and then she withdraws her application;
- **Danger** – women are at a 75% greater danger when they try to leave and applying for a restraining order can fall into this category – he has threatened her “if you leave, or tell anyone, I'll kill you”.

- **Practical reasons** – she doesn't have a job or a way to support herself and the children without him and if he's not in the home, she doesn't have anything.
- **He says he'll change** - she wants to believe him – she just wants the violence to end.

It's essential that we treat each applicant with compassion, patience and a non-judgmental attitude. You may be the only friendly face the victim has seen all day, or all week.

Finally, Mark's showing up has really made this a difficult situation. One of your challenges is to be sure YOU and the VICTIM are not in any immediate danger. The Clerk needs to keep Susan's attention and call for assistance if she feels it's necessary.

2. Would it be hard to be impartial in this situation? If yes, why?

It could be hard to remain impartial if you feel bias toward either party based on the facts that you have been presented with.

The clerk may feel bias against Susan due to her substance abuse, her unwillingness to follow through the first time, or the fact that the clerk's brother has given her conflicting information. Also, there is the issue of Susan being an unwed mother, making poor judgments and therefore the clerk may feel that Susan is solely responsible for her present circumstances and should not be inconveniencing the clerk.

The clerk may feel bias against Mark due to his substance abuse or a general prejudice against alleged abusers. Also, if the clerk feels sympathy for Susan, she might feel hostile toward Mark.

3. What is your response, as the clerk, to Susan at this point?

The clerk is most likely going to have to arrange to be a little late to her 5:00 pm appointment. Remember Susan is in need of help only you and the court can provide. Be patient, don't judge and make sure that she has the forms and information she needs to bring this matter to the attention of the court.

If necessary, you may arrange for the Bailiff or a security officer to join the two of you so that Susan feels safe with Mark there. If you have support services for victims, you will want to make sure that Susan is aware of them. For example, if a domestic violence victim advocate is available to help, you could make that call or if you have literature about a shelter or victim services, you'll want to provide these to her. It's important to know the services available in your area. This is a topic you'll want to discuss with your supervisor before providing referrals of any kind.

It's also a good idea to have extra copies of restraining order application forms and forms for orders after hearing in the courtroom in case parties need to re-write these.

Of course if there is a present threat, you can ask the bailiff to request an Emergency Protective Order from the on-call judge or suggest Sally contact the police to escort her and the baby home.

4. What resources are in your courthouse or community that could help you assist Susan?

This will depend on your court and county. Your supervisor is a good resource for this information. Self help sites, domestic violence victim's advocate, social services, and CASA volunteers are possible resources you'll want to be familiar with.